

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

I. STATUS OF CLAIMS

Claims 2-6, 8, 9 and 23-33 are pending in this application. Claims 1, 7 and 10-22 have been canceled without prejudice. Claims 2, 4, 8 and 9 have been amended to more particularly point out and distinctly claim that which applicants regard as their invention. New claims 23-33 have been added. It is respectfully submitted that no new matter has been added by virtue of this amendment. Support for the new claims and the amended claims are found throughout the specification as originally filed.

II. OBJECTIONS

A. Objections to Drawings

The Examiner objected to the drawings under 37 C.F.R. 1.83(a). The Examiner stated that the dispensing surface recited in claim 1 must be shown in the drawings or otherwise this feature must be canceled from the claims.

In response, Applicants respectfully disagree with the Examiner's position that the "dispensing surface" recited in original claim 1 is not depicted in the drawings. In particular, figures 5A of the drawings in conjunction with the present specification clearly depicts and indicates to one skilled in the art that the "dispensing surface" is located on the outer perimeter of the dispensing nozzle (46) located adjacent to the dispensing ring (48).

In this regard, Applicants have submitted herewith a proposed drawing amendment to Fig. 4 for approval by the Examiner pursuant to 37 C.F.R. § 1.123, wherein Applicants propose to add reference numeral “47” to refer to the “dispensing surface” in Fig. 5A of the drawings. The above proposed change has been made in red to Fig. 5A. It is respectfully submitted that no new matter would be added by virtue of this proposed amendment. Support for this proposed amendment may be found throughout the specification as originally filed.

In view of the actions taken, it is believed that the above referenced rejection has been obviated.

B. Objections to Specification

The Examiner objected to the specification as failing to provide antecedent basis for the claimed subject matter. Specifically, the Examiner alleges that the specification fails to provide antecedent basis for the requirement in claim 3 that “ the arcuate portion of the housing positioned to allow the pump roller to pinch the feed tube to create the vacuum”. In response, lines 12-13 of page 3 of the specification has been amended to replace the text of “A portion of the housing wall may be shaped to allow the pump to pinch the feed tube to create the vacuum to transport the solution through the feed hose to the fanning tip adjacent to the nozzle.”, with the text “A portion of the housing wall may be shaped, e.g. arcuate shaped portion, to allow the pump to pinch the feed tube to create the vacuum to transport the solution through the feed hose to the fanning tip adjacent to the nozzle.” Support for this amendment may be found throughout the present specification as originally file and in particular on page 7 line 21 and claim 3 as originally filed.

Further, the Examiner objected to the specification on the grounds that on page 8, lines 4, 7 and 11

of the specification on the grounds that reference characters 42 and 46 have been used to designate both “nozzle” and “ring”. In response, Applicants note that as illustrated in the drawings and described the present specification, reference numerals 42 and 46, each clearly refer to different nozzles. Reference numeral 42 refers to the “nozzle” associated with feed tube 26, whereas reference numeral 46 refers to the “dispensing nozzle”. However, Applicants have now indeed discovered some inadvertent typographical errors in which reference “46” was used to mistakenly refer to both the dispensing nozzle and the dispensing ring. As clearly illustrated by the drawings and present specification, reference numeral 46 should only be used to refer to the “dispensing nozzle” and reference numeral 48 should only be used to refer to the “dispensing ring”. Accordingly, the specification has been amended herewith to correct the above inadvertent errors wherever they occurred in the present specification.

Additionally, the Examiner objected to the specification on the grounds that on page 9, lines 1 and 5, reference characters “54” have been used to designate both “fan blade” and “funnel”. In response, Applicants note that reference numeral “54” referring to “fan blades” of the fan assembly is correct as currently written. However, the reference numeral used for referring to the “recycling funnel” has been changed herewith from “54” to “57”.

In this regard, Applicants have submitted herewith a proposed drawing amendment to Fig. 4 for approval by the Examiner pursuant to 37 C.F.R. § 1.123, wherein the reference mistakenly numeral used for referring to the “recycling funnel” has been changed herewith from “54” to “57”. The above proposed change has been made in red to Fig. 4. It is respectfully submitted that no new matter would be added by virtue of this proposed amendment. Support for this proposed amendment may be found

throughout the specification as originally filed.

In view of the actions taken, it is believed that the above referenced rejection has been obviated.

III. REJECTIONS UNDER 35 U.S.C. § 112, Second Paragraph

Claims 1-8 and 13-22 were rejected by the Examiner under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention.

First, Applicants note it is unclear why the Examiner rejected claims 1-8 and 13-22 under 35 U.S.C. 112, second paragraph, but only provided specific reasons for this rejection with regard to claims 1, 7, 14, 15 and 19-20. Accordingly, the Applicants will address only the specific 35 U.S.C. 112, second paragraph rejections expressed by the Examiner.

In particular, claim 1 was rejected on the grounds that the limitation “the outside air” lacked antecedent basis. Claim 1 has been canceled herewith without prejudice. The only pending claim which expressly recites the above limitation is claim 2, as amended, wherein this limitation is recited with proper antecedent basis.

Claims 7 and 19-20 were rejected by the Examiner as having been drafted in such a way that these claims appeared to be entirely functional. The Examiner went on to state that these claims were “...vague and indefinite because, the additional structure sought to be added to claim 1 or encompassed in this dependent claim cannot be determined.. In response, the limitations of claim 7

have been incorporated into claim 4 and claim 7 itself has been canceled herewith without prejudice. Claims 19-20 have been canceled herewith without prejudice. It is respectfully asserted that now none of the currently pending claims contain the above “entirely functional language”, as alleged by the Examiner.

Claim 14 was rejected by the Examiner as being indefinite on the grounds that the phrase “capillary pump” cannot be determined. The above rejection is now moot because claim 14 has been canceled herewith without prejudice and the expression “a capillary pump” does not appear in any of the currently pending claims.

Claim 15 was rejected by the Examiner as being indefinite on the grounds that “..it is not clear what the phrase a fanning tip is intended to encompass”. Claim 15 has been canceled herewith, without prejudice. The remaining claims, i.e. claim 9 and new claim 31, which contain the term “fanning tip” also include language which describes what the fanning tip does , thereby clarifying what the “fanning tip” is intended to encompass.

In view of the actions taken, it is believed that all of the above referenced rejections have been obviated.

IV. REJECTIONS UNDER 35 U.S.C. § 102(b)

The Examiner rejected claims 1 and 9 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,462,469 to Lei (“the Lei patent”). According to the Examiner, the Lei patent discloses a bubble making apparatus comprising a dispensing opening, a sleeve mounted within the dispensing opening and having a dispensing surface, a tank mounted on the housing and connected to the tank by a tube, and a source of blown air. In addition, the Examiner alleges that the Lei

patent discloses a film producing ring situated adjacent to the dispensing surface and movable parallel thereto. The Examiner took the position that since "...the device disclosed in the reference includes all of the structural elements of the claims it is presumed to be inherently capable of all the claimed functions including the ability to distribute a thin film of liquid across the dispensing surface."

Initially, Applicants acknowledge with appreciation the Examiner's indication that claims 2-3 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph.

In response, claim 2 has been rewritten in independent format including all of the limitations of claim 1 (i.e. base claim). Thus, claim 2 is now in allowable form. Further, the specification has been amended herewith to provide proper antecedent basis for claim 3. No new matter was added by virtue of this amendment. Claim 3 is therefore now allowable.

Since dependent claim 9 depends from and incorporate all of the limitations of independent claim 2, as amended, this claim is now likewise patentable over the Lei patent.

The Examiners' rejection to claim 1 is now moot, as this claim has been canceled without prejudice herewith.

Finally, it is respectfully submitted new claim 23 is patentable over the Lei patent. Specifically, the Lei patent purports to disclose a bubble making toy comprising a rotatable ring member having a hole for forming a bubble, a pivotable wand element mounted near the outlet side of the hole and can be pivoted across the face of the hole by actuation of a trigger. The device of Lei further comprises a pump, actuated by a trigger for directing a soap mixture from a reservoir to the wand element. The wand element then receives the soap mixture and forms a film of soap over the hole as it pivots across the face of the hole.

However, the Lei patent at the very least fails to teach or suggest “...a pump arrangement comprising a transfer gear coupled to a pump gear which carries pump rollers for contacting said feed hose to create a capillary action to move said bubble forming solution from said reservoir to said dispensing surface.”, as recited in new claim 23. Thus, new claim 23 is patentable over the Lei patent. Since new claims 24-33 depend from and incorporate all of the limitations of claim 23, these claims are likewise patentable over the Lei patent.

V. 35 U.S.C. § 103(a)

The Examiner rejected claims 4-7 and 10-22 under 35 U.S.C. § 103(a) as being unpatentable over the Lei patent in view of U.S. Patent No. 6,416,377 to Bart (“the Bart patent”). According to the Examiner, the Lei patent discloses most of the features of the above claims, but as conceded by the Examiner the Lei patent fails to disclose “...a light source/means for illuminating bubbles as recited in claims 2 and 10, the light source is an LED as recited in claim 5, the light source flashes as recited in claims 6 and 22 and means for adjusting the means for illuminating as recited in claim 12.”

Additionally, the Examiner further alleges that the Bart patent teaches the providing a light source/means for illuminating bubbles in a bubble making apparatus. The Examiner took the position that it would have been obvious to one skilled in the art to modify the device of the Lei patent to incorporate the light source/means of the Bart patent to produce a device usable by a child either day or night.

The Examiner further alleged that it would have been obvious to one skilled in the art to modify the device of the Lei patent to have the LED light source, the flashing light source and means for adjusting the means for illuminating. The Examiner reasoned that it would have been obvious to make the above modifications to the Lei patent in order to provide a device which was more fun and interesting to play with.

In response, as mentioned above, claim 2 has been rewritten in independent format including all of the limitations of claim 1 and thus amended claim 2 is now in allowable form. This claim is therefore now patentable over the Lei patent in view of the Bart patent. Since claims 4-7 depend from and incorporate all of the limitations of amended independent claim 2, these claims are likewise patentable over the Lei patent in view of the Bart patent.

The Examiner's rejection to claims 10-22 are now moot, as these claims have been canceled herewith, without prejudice.

Lastly, it is respectfully submitted new claim 23 is patentable over the Lei patent in view of the Bart patent. Specifically, as mentioned above, the Lei patent at the very least fails to teach or suggest "...a pump arrangement comprising a transfer gear coupled to a pump gear which carries pump rollers for contacting said feed hose to create a capillary action to move said bubble forming solution from said reservoir to said dispensing surface.", as recited in new claim 23.

The Bart patent which purports to disclose a bubble blowing device with multi-color effects and varying air flow pressure fail to cure the above deficiencies of the Lei patent. Namely, the Bart patent at the very least fails to teach or suggest ...a pump arrangement comprising a transfer gear coupled to a pump gear which carries pump rollers for contacting said feed hose to create a capillary action to move said bubble forming solution from said reservoir to said dispensing surface.", as recited in new claim 23. Thus, new claim 23 is patentable over the Lei patent in view of the Bart patent. Since new claims 24-33 depend from and incorporate all of the limitations of claim 23, these claims are likewise patentable over the Lei patent in view of the Bart patent.

The Examiner further rejected claim 8 under 35 U.S.C. §103(a) as being unpatentable over the Lei patent in view of U.S. Patent No. 5,520,564 to DeMars ("the DeMars patent").

The Examiners alleges that the Lei patent discloses most of the features of this claim as applied to claim 1 including a recycling funnel and a recycling tube interconnecting the recycling

funnel and the tank. However, the Examiner concedes that the Lei patent fails to teach a one way valve disposed within the recycling tube to prevent fluid flow in a direction from the tank to the recycling funnel.

The Examiner further alleges that the DeMars patent, which according to the Examiner relates to a bubble making toy, which teaches the desirability of providing a "...a one-way valve in the recycling system of a bubble making toy to prevent fluid flow in a direction from the tank to the exterior of the housing. According to the Examiner, it would have been obvious to modify the device of the Lei patent to include the one-way valve of the DeMars patent and to dispose it within the recycling tube to prevent fluid flow in a direction from the tank to the recycling funnel.

In response, Applicants assert that claim 8 is patentable over the Lei patent in view of the DeMars patent. Claim 8 depends from and incorporates all of the limitations of amended claim 2. As mentioned above, amended claim 2 is now in allowable form. Thus, claim 8 is likewise patentable over the Lei patent in view of the DeMars patent.

Also, new claim 23 is patentable over the Lei patent in view of the DeMars patent. The Examiner cited DeMars only for its description of the "one-way valve in the recycling system of a bubble making toy to prevent fluid flow in a direction from the tank to the recycling funnel." Even if one skilled in the art were to incorporate the valve/recycling system described in the DeMars patents into the device of the Lei patent, one would still not arrive at the presently claimed invention, as recited in new claim 23. Thus, new claim 23 is patentable over the Lei patent in view of the DeMars patent. Since new claims 24-33 depend from and incorporate all of the limitations of claim 23, these claims are likewise patentable over the Lei patent in view of the DeMars patent.

VI. CONCLUSION

In view of the actions taken and arguments made it is believed that all pending claims as currently presented are now in condition for allowance. A Notice of Allowance is respectfully requested.

According to currently recommended Patent Office policy, the Examiner is requested to contact the undersigned at the telephone number provided below in the event that a telephone interview will advance the prosecution of this application. An early and favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard B. Klar', written over a horizontal line.

Richard B. Klar
Reg. No. 31,385

Law Office of Richard B. Klar
875 Avenue of the Americas, Ste 2301
New York, New York 10001
(212) 279-2991